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December 15, 1997

Ms. Cynthia L. Johnson
Director
Cash Management Policy and Planning Division
Financial Management Service
US Department of the Treasury
Room 420
401 14th Street SW
Washington, DC 20227

Dear Ms. Johnson:

Attached please find my formal comments on 31 CFR 208, the proposed changes to the Debt Collection Improvement Act of 1996. These represent the opinions of the Connecticut Association for Human Services, and were formed from our extensive experience with Electronic Benefit Transfer in Connecticut.

In sum, we are extremely supportive of the transition to electronic funds transfer for federal beneficiaries, but we urge the Treasury Department to amend sections of these proposed regulations. We are concerned that these regulations do not adequately guarantee reasonable access to cash, and countless recipients may be irreparably harmed during the transition from check issuance to EFT.

We appreciate your consideration of our concerns. Please feel free to contact me regarding these comments.

Sincerely,

Catherine Verrenti

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EFT #C91

Written comments submitted to the Department of the Treasury, Fiscal Services regarding Proposed Regulations 31 CFR 208 - "EFT 99" Provisions of the Debt Collection Improvement Act of 1996

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December 16, 1997

The Connecticut Association for Human Services (CAHS) welcomes the opportunity to comment on the Treasury Department's proposed regulations for "EFT 99." Our concern is its effects on federal beneficiaries, particularly low-income consumers. CAHS is a private non-profit research and advocacy organization, established in 1910, to address the human service needs of Connecticut residents. Much of our emphasis supports state and federal programs that improve the health and well-being of children and low-income adults. Our primary areas of expertise include food and nutrition programs; health care in today's rapidly changing environment; and the pursuit of educational, economic and social justice for all children in Connecticut.

CAHS has been active in Connecticut's transition to Electronic Benefit Transfer (EBT) over the past several years. This is a dramatic transition in the way people receive, access and think about benefits. Our activity around EBT includes input into the design and implementation of the EBT system; extensive client education, particularly with the elderly and disabled populations; and the continuous monitoring and evaluation of the system that is now statewide. Our long experience with EBT lends insight into the effects of the proposed EFT 99 regulations. We do not need to guess what will happen when ten million people are carried into electronic banking: we have already seen what to expect with EBT.

After following Connecticut's transition to EBT for several years, we are convinced that electronic banking can be a very positive experience for the bulk of participants, and we are very supportive of Treasury's movement toward EFT99. It can, as anticipated, carry the "unbanked" into the economic mainstream, reduce stigma, and add security and convenience to financial transactions. However, we must be very cognizant of electronic banking's negative impacts. If a system is going to be mandatory, we must be absolutely certain that there will be no hardship imposed on low-income recipients who depend on these payments for their livelihood. There are three major lessons learned from EBT which are directly applicable to EFT99 and the proposed Treasury debit accounts (ETA) for the unbanked:

1. The people most at risk of having problems are those who are not used to the banking system and the abstract concepts of electronic banking. Education is of the utmost importance, but a "blanket" education does not work for people who need it the most. Education must utilize a multi-media approach. Equally important, service providers and neighborhood groups play a key role in educating their communities. They must be given accurate and detailed information from the very beginning.

2. No matter how advanced or ubiquitous the technology is, there will be failures and glitches. It is more than inconvenient for clients when there are technological problems: someone living on a very tight budget incurs significant financial burdens when he cannot access cash when anticipated. Therefore, there must be backup systems to guarantee cash access, especially for ETA users.

3. Electronic banking is not for everyone. Certain populations, including people with educational limitations, language barriers or mental illness, are at significant risk of victimization when they are funneled into a system that is inappropriate for them. Other clients will see their banking needs change dramatically over time. It is essential to provide an opt-out for people who will be harmed by this system.

The undercurrent of following discussion is the very tight time schedule anticipated by the Treasury Department. On a much smaller scale, Connecticut condensed its EBT roll-out, and we discovered that perhaps the transition was far too quick to assure consumers access to their benefits. The Treasury is planning a transition that will affect a hundred times as many "unbanked" recipients. This very dramatic transition will take place in a mere two years. When unanticipated kinks occur, or if a client is not completely prepared, it is always the recipient who is harmed the most.

Discussion:

These three key lessons touch on many of the specific questions asked by Treasury in its proposed regulations. I will elaborate on these points based on Connecticut's experience before addressing the remaining issues.

Consumer Education

Education is crucial for the "unbanked." As anticipated, this population is unfamiliar with ATM usage, PIN security, and the concept of abstract money. For example, nearly a year into EBT implementation, we still find clients who cannot access their funds, write their pins on their cards or hand their PINs to clerks for assistance. The trend for states transitioning to EBT has been to rely on a blanket training which consisted of mailing a basic educational brochure. One size has not fit all on the state-level, and it is a recipe for disaster at the national level. Some of this population cannot read, or has vision problems that prohibit reading small print. Alternative mediums - including television, radio, and native-language community newspapers - must be used, and used early and repeatedly.

Education must be a community-wide endeavor. When a consumer has a question, he or she asks a care-giver, friend or relative for advice before approaching a bank representative or state employee. Service providers - particularly those who work with seniors and people with physical disability or mental illness - must be as prepared for this transition as their clients. We learned that without a full educational campaign there is the potential of the rapid spread of false rumors, risky client usage and unhealthy money management.

Many of these confusing rumors about EBT started from misinterpretation of existing educational materials. This could have been avoided if service providers and advocates for specific populations had been involved in the content and design phases of material development. Government letters and educational materials are notorious for being confusing and lengthy, with key provisions often hidden in the middle of the page. Therefore, if EFT is going to work, the education piece must result from a partnership between government and its contractors, banking interests, and the community who knows what it needs regarding services, education and format.

Clients are under-informed as to how to find a bank that meets their needs, or their rights and obligations when dealing with a bank. In addition, money management training -- how to track ATM withdrawals and use a monthly statement - should be part of any introductory training packet or workshop. This level of training in the current banking environment is currently weak. For example, CAHS recently surveyed Connecticut's banks on its educational materials. Although many banks were able to provide us with glossy brochures outlining the types of checking accounts they offer, *only one* had any basic money management material. If the banking industry is to play an active role in educating potential clients, its must develop materials in a format that is comprehensive and objective.

Finally, this education must be complete, and must repeatedly detail recipient options. The "barebones" approach to EBT training has rendered useless certain waivers and options because no one knows about them. We already see this trend in EFT. Major providers for the elderly are already advising clients to open bank accounts soon. These providers only know half the story, and they are unable to give information about waivers or ETA because they do not even know about these yet. If the thrust of the education is "EFT is coming," then clients will essentially be coerced into opening bank accounts. And, as discussed below, once a recipient starts getting EFT, there is no turning back.

There seems to be debate whether it would be appropriate to stop the educational campaign until the details are worked out regarding ETA and waivers. Stopping the flow of information once it has started is nearly impossible, and likely to end up with the proliferation of more false rumors. The bottom line is whether this information is forcing people into bank accounts that should not have them. At some point, these clients will need to deal both with banks and with federal paperwork to get their checks deposited directly. Treasury will begin collecting client information early next year to start processing through the ACH network. Notification of future waivers, even if the details are not yet clear, should be included in this information-gathering stage.

The Booz-Allen & Hamilton and Shugoll demographic study makes several insightful comments regarding the barriers faced by the "unbanked" to opening a bank account. We would like to add an additional note of perception. We have received countless comments from EBT users about the "Big Brother" affect of electronic transactions. In particular, they are very concerned that the state will monitor their accounts with an eye to catching them with balances over the eligibility requirements. This fear, unbased as it is, discourages savings and responsible money management, and therefore contradicts the spirit of these regulations. Information disseminated on EFT99 should make it clear that they are protected from this type of government monitoring.

Technological Problems and Backup Systems

The technology of electronic banking is not flawless. This is not a problem for most bank customers who can access their money by writing checks or talking to a teller. However, if a debit card does not work or the system is down, a consumer holding a Treasury debit card or an EBT card will be unable to access his benefit if there is no guarantee of a backup. People living on very tight budgets need to access cash at the beginning of the month to pay for rent, utilities and food -- life necessities that don't wait while computer systems come back on-line. There are hidden client costs associated with technological failures or faulty cards: for instance, there may be fees imposed on late rent payments or families with children pay additional bus or cab fares as they try to find another machine that might work. If this burden is imposed on the elderly or other federal beneficiaries living on very limited budgets, the personal hardship is incalculable.

The EFT account must provide with a manual backup system that is not affected by a damaged card or down telephone line. There are several simple ways to achieve this, such as assuring access through a bank teller, or allowing vendors to manually verify that the consumer has the funds in the account.

Waivers - §208.4

Electronic banking is not for everyone. We commend the Treasury for recognizing that there will be situations when it would be detrimental to a client to be forced into EFT. Furthermore, we applaud that the waivers allowed in § 208.4 are self-certifying, as any agency oversight would prove extremely burdensome. *Since the Treasury does not believe it appropriate to judge a recipients unique circumstances, it would make far more sense to offer all recipients an op-out.* Delineating waiver categories will only confuse clients and create administrative nightmares -- problems which can be avoided by letting consumers determine their own needs.

In lieu of a consumer option, there is no doubt that the existing permanent waiver categories must be broadened beyond geographic and physical barriers. We have seen repeatedly in the last several months that there are groups of EBT users who have been unable to access their benefits independently because they can't work the ATM machine, can't read the screen, or are faced with language barriers. Language and educational barriers, along with mental illness, including traumatic brain injury, are very significant barriers to participating in electronic banking environment. These three barriers also may make it more difficult for consumers to find an appropriate low-cost bank account.

The logic behind limiting voluntary waiver categories is based on flawed assumptions. It is a grave mistake to assume that all people with mental illness - including brain injury or Alzheimer disease -- rely on an authorized representative to manage their money. Often, only the most severe cases of mental illness require an authorized representative. Most people can cash checks - all they have to do is sign their name, and the transaction is typically done by talking to a real person, whether a bank teller or store clerk. And most people with mild mental disability can understand money -- it can be held in their hands and counted. Electronic money is unique. Electronic money is an extremely abstract concept, and for some people with mental illness, it is impossible to negotiate electronic transactions independently. Remembering a four-digit PIN may be impossible for some people, especially if they only use it a few times at the beginning of the month. The multi-stepped process of using an ATM is frustrating for some people with cognitive difficulties.

Similarly, the Treasury needs to extend waivers to people with language or educational barriers. Treasury wrongly assumes that educational and language barriers interfere with the use of all payment mechanisms, including checks and EFT. Basic banking and ATM usage presume a degree of functional literacy that is not necessary for cashing a check and counting bills. It is not difficult to imagine that, if coerced into opening a bank account, people with limited literacy or who do not speak English well will find themselves paying for accounts that do not serve their needs. Maintaining that bank account, if done safely and responsibly, requires reading statements in English and reviewing fees and charges. Inability to read at a fifth grade level is estimated at close to twenty percent - one in five adults - in parts of New England. To assume that the Treasury's educational campaign will overcome these barriers within the next two years is to gamble needlessly with the livelihood of thousands of people.

Rather than bring these populations into the economic mainstream, EBT and EFT may actually increase dependence on others for help. Complete lack of access, whereby a client simply cannot find a way to get cash, is less common than risky practices with their cards. For example, we have heard repeatedly that some clients who cannot manage EBT on their own typically give their cards and PINs to store clerks. The process may be too complex, or perhaps they cannot admit that they cannot read their PIN, but the message is clear: some clients are forced to place themselves in vulnerable positions - dependent on the honestly of strangers - to access the very limited funds that they receive.

We are concerned that Treasury has established a "point of no return" for bank customers. As the regulations currently stand, if a recipient opens a bank account, he is forever tied to the banking industry to receive and access his benefits. There is no provision for future changes in the banking environment or a client's specific circumstances. It is wrong to assume, as the Treasury does, that a recipient with an existing bank account will not incur additional expenses by receiving payment by EFT. The recipient may be victimized by any number of anticipated mergers that almost always result in increased bank fees (this is discussed in more detail on page 10). There are also personal circumstances that may change over time that may make maintaining a bank account much more difficult for a recipient. For example, the onset of early Alzheimer disease, or the death of the spouse who handled the finances, could dramatically change the viability of maintaining that account.

We commend the Treasury for offering a waiver for financial hardship for people who do not already have bank accounts, but we urge that the Treasury use more foresight by broadening this exemption. In two years, the remaining unbanked will be funneled into the Treasury's ETA. *This ETA must be available to all recipients at any point in time* -- only the consumer can determine whether a bank account remains appropriate for him.

Access to Account Provided by Treasury -§ 208.5

The Treasury has specifically asked for input regarding its debit account for the unbanked (ETA). *Client expense has to be the primary factor in designing this system.* As the FMS demographic study indicates, the primary reason recipients do not already use direct deposit is the cost is too steep. If the Treasury is serious in its commitment to making ETA work for recipients, its debit account must be a viable option and provide what banks do not offer. Clients needing specific services always have the option of purchasing them from a bank: the Treasury debit account should be free. It is inherently unfair to foist a new system on millions of recipients that will eventually be a financial hardship.

There are certain characteristics which are necessary to ensure minimal access:

- Reasonable access for people living in very unique, and occasionally isolated, geographic areas must be ensured. Relying on the existing ATM network alone is not the solution. Living in an urban area does not necessarily guarantee access to cash. In fact, the low-income urban areas in Connecticut and other large cities in the Northeast are notably under-served by the banking community. There are, for instance, only a handful of ATMs in Hartford, which has a population of over 130,000. An example of a temporary solution, as is currently utilized in Hartford for EBT users, is the availability of mobile bank vans at the beginning of the month. Treasury and the banking industry need to aggressively search for other solutions to access barriers faced by low-income urban community issues.

- Free cash access through POS transactions, with purchase, should help alleviate this access barrier. Cash must be accessible at both ATMs and POS machines in stores, Post Offices or other establishments.

- Regional access is also critical and needs to be factored into the procurement process of identifying potential contractors. It is common to hear of homeless individuals moving around every few months to different parts of the state looking for work or shelter. It is likely that such individuals receive SSI or perhaps veterans benefits, and they need to be able to access these benefits regardless of where they are living this month. The process of applying for a new card that works in a different part of the state would prove such a large barrier that this population would unlikely be able to access their badly needed assistance.

- The current conventional wisdom accepts four free ATM transactions per month - an average of one per week. This is the absolute minimum that is needed to encourage responsible money management. We would encourage, however, a tiering of free access tied to the total amount of benefits deposited monthly. Four transactions may prove too few for a head-of-household trying to budget eight hundred or a thousand dollars in an electronic account.

- It does not make sense to impose additional surcharges for using machines that do not belong to the contracting bank. Limiting access to the contracting bank's system would make it impossible to guarantee equal access throughout a region or state, and to charge out-of-system surcharges would result in geographic discrimination. There are enough large access networks, such as NYCE or CIRRUS, that guaranteed access should not be a problem. Use of these networks would also help insure that smaller institutions, including credit unions, have the ability to bid on these regional contracts.

- As discussed in detail on page 4, it is critical that there is a back-up system for situations when the technological system fails.

- Recipients should be able to use their cards to access cash inside the bank, with the assistance of tellers. This could mitigate some of the intimidating aspects of electronic banking. Much of the population that will likely end up with a Treasury account is elderly or disabled, who have done face-to-face financial transactions all their lives. This should not be considered an ATM transaction for the purposes of imposing fees.

- There must be a simple mechanism by which consumers can report problems or get information about their account. If, as is the current trend, this is an Automated Voice Response system, there must be a very simple way to access a live customer service representative. This system must also be accessible to non-English/non-Spanish speakers through a translation system.

- ETA transactions should be treated as other electronic transactions (credit card or ATM) at any POS in an establishment. Stores currently vary in procedures and maximum cash back for any POS transaction, but recipients should not be singled out and treated differently. This includes access to the same amount of cash, and a guarantee that benefit recipients do not have to buy additional items in the store.

- The ETA account cannot close at zero balance, and there should be no ability to over debit the account.

- Recipients must have the ability to change their PIN. Assigned PINs often prove meaningless and difficult to remember.

- As the Treasury notes, it is crucial that these funds are covered by basic consumer protection laws, such as Regulation E.

- It is very important that written statements of account activity are available for these account-holders. The Booz-Allen & Hamilton and Shugoll Research analysis of the unbanked confirms what we have seen with EBT -- the "unbanked" find it is very difficult to track and monitor electronic transactions. We have seen EBT clients rely exclusively on computer receipts to tell them their balance, and there is very little independent record keeping. Without a transaction history, it is impossible to detect any computer error. There is no need to repeat the mistake of EBT by denying these account holders a written statement. Indeed, assuring a written statement is critical if this is a serious effort to carry the "unbanked" into the economic mainstream.

The Treasury has also asked a series of good questions about additional features. It is our opinion that the above points are the absolute minimal requirements for the Treasury account, and other features should be explored, as long as they can be added at no additional cost to the consumer or are at the consumer's option to purchase. Most notably, it is reasonable to provide for third-party electronic payment on this card. In the past several years, creditor institutions have made huge strides in receiving their payments electronically (either through automatic withdrawal or home personal computer transactions). Often, these services do not cost the consumer, and the transaction clearly saves the creditor in processing costs. A similar standard should be available to Treasury account holders.

EFT Linkage with EBT

The Treasury is also exploring the option of linking with state EBT systems. EBT clients favor such linkage, as it would be far less cumbersome than carrying two cards with two PINs. There are, however, some potential issues with this linkage that need to be raised.

- EBT for federal funds should be optional for existing state EBT participants. The Treasury account should be available to EBT users for federal funds. They may have multiple reasons for finding the Treasury account a better personal choice, and these options would need to be made clear.

- Clients will need to be well informed as to where to go to get a problem resolved. With EBT, one state agency, and typically one worker at that agency, can answer most questions or start an investigation into missing funds. The addition of federal funds brings many large federal bureaucracies (SSA, VA, etc) into the picture, and the delay of going to the wrong worker could mean no cash access for an extended period of time. The most ideal solution would be to provide a streamlined error resolution protocol - a "one-stop shopping" model for clients to get any problems resolved.

- In Connecticut, all cash benefits, regardless of its originating program (TANF, State Supplemental Insurance, State Administered General Assistance, etc) are lumped into one cash account. Tossing federal payments into that one cash account would be extremely unwieldy, difficult to track whether the correct amounts have been deposited, and impossible to get problems resolved. We recommend that separate cash accounts for federal benefits be available on the state EBT card.

- There would need to be additional free ATM transactions if federal benefits were added to the EBT card. Otherwise, it would be in the client's best interest to opt for a Treasury-provided ETA card to guarantee free access. This scheme contradicts the Treasury's intent of streamlining the process and reducing cost.

- The Treasury has avoided the longstanding problem with EBT - its lack of Regulation E protections - by guaranteeing that these federal funds will be protected. We are concerned that states or their current EBT contractors will attempt to find ways around applying Reg E to federal benefits on state cards. It is now a travesty that states are exempt from applying Reg E to EBT accounts - we have sanctioned a two-tiered system that protects everyone except low-income people from theft or computer error. There is no need to duplicate these mistakes.

- We are also concerned that the two different standards of protection on EBT cards would be very confusing to clients. The easy solution, of course, is to raise state EBT funds up to the standard applied to other consumers and provide Reg E protection. In the absence of this, a very intensive consumer education campaign would have to be initiated so that EBT clients understand the different protections applied to their multiple benefits. This full information could influence their decisions on whether to open a bank account, use ETA or EBT, or which benefit stream to use first. The Treasury should address these potential dilemmas before implementing a national program.

- Linking federal beneficiaries into the state EBT program offers the guarantee of statewide access, once EBT is running statewide in all states. But it stumbles on the issue of interoperability, which is a current hurdle in the EBT environment. For example, while most states are using on-line technology, a few states are experimenting with off-line "smartcard" EBT technology. Funneling federal funds into a state's unique system could potentially make interstate travel very difficult for some beneficiaries.

- We have covered in detail some of the situations where a client might need a waiver from participating in EFT. It is equally important to also note that circumstances change over time, and use of a debit account today may not be possible in the future. Clients need to be able to opt out of the program and return to check delivery at any point.

Account Requirements -§ 208.6

The Treasury anticipates that competition in the financial industry will result in acceptable accounts for low-income consumers. This is an extremely ambitious outlook. Currently, ten million recipients have deliberately chosen *not* to open bank accounts, often because free market options do not suit their needs. Quite the contrary: Connecticut, like most other states, has seen the significant decrease in competition in the last decade, as the industry has consolidated with bank mergers. A recent CAHS survey demonstrated that although some of the smaller local banks offer reasonably priced accounts to non-seniors, comparable accounts at regional or national banks could easily cost a consumer at least $10 a month or more. Significantly, these megabanks happen to be the banks that are quickly buying up the neighborhood banks, closing neighborhood branches, and jacking up fees. It belies logic to think that forcing recipients into this banking industry will result low-cost accounts.

We expect that most federal beneficiaries will open bank accounts within the next two years. If the laws of the federal government will result in an additional *$7 billion a month* flowing into the nation's banks, it is unconscionable to do so without regulation that protects consumer interests. If banks are profiting from the float on $84 billion annually, and the federal government is saving an average of $100 million a year, why should low-income, elderly and disabled Americans be the only ones losing money by paying bank fees? *In the very least, there needs to be an established standard of "reasonable price."* This price should be determined by what a reasonable low-income consumer can afford to pay for basic services rather than what profit the banking industry reasonably anticipates earning from EFT99. Needless to say, ten dollars a month, or $120 a year, is not reasonable a recipient who may be living on $3600 a year in SSI.

Conclusion

There is a great deal of discussion on how direct deposit will change the way low-income people bank -- how they must be willing to change or be left outside the "economic mainstream." Most federal recipients will, in fact, change, to their own benefit and security. But this change will be scary, risky and possibly expensive for many people. We appreciate the opportunity to outline the minimal requirements of this emerging system that will ensure a fair and equitable transition for all partners. Our vision is limited by the reality of today's marketplace. We hope that the federal government and the financial industry have a far broader vision to use this opportunity to create a system that profitable for all involved, especially the millions of people being foisted into a system without their choice.